

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARK L. BYRD,)	
)	
Movant,)	
)	
vs.)	Case No. 4:07-CV-1060 (JCH)
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM

The matter is before the Court on Movant's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 ("§ 2255 Motion"). In his motion, Movant claims that he received ineffective assistance of counsel when his trial counsel failed to file a motion to suppress evidence. (§ 2255 Motion, Doc. No. 1 at p. 4). In Response, the Government filed an affidavit from his counsel stating that he believed a motion to suppress would be unsuccessful. (Counsel's Aff., Doc. No. 6 at ¶ 7). Counsel made this decision by reviewing all the material in the Government's "open file," which included all investigative reports. (*Id.* at ¶ 6). After reviewing this affidavit, the Court believes that it would benefit greatly from reviewing the investigative reports, as well as any other evidentiary materials, that Counsel used to determine that a motion to suppress would be unsuccessful.

Accordingly,

IT IS HEREBY ORDERED that Respondent shall file a copy of the relevant discovery materials used by Counsel to determine that a motion to suppress would be unsuccessful no later

than **Monday July 7, 2008.**

Dated this 23rd day of June, 2008.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE